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9	BEFORE THE BOARD OF REGISTERED NURSING		
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12	In the Matter of the Accusation Against:	Case No. 2009 - 240	
13	SUSAN THOMAS, a.k.a. SUSAN TEHANEY	ACCUSATION	
14	3823 Pinecrest Drive Mariposa, CA 95338		
15	Registered Nurse License No. 319486		
16	Respondent.		
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18	Complainant alleges:		
19	<u>PARTIES</u>		
20	1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation		
21	solely in her official capacity as the Executive Officer of the Board of Registered Nursing		
22	("Board"), Department of Consumer Affairs.		
23	2. On or about August 31, 1980, the Board issued Registered Nurse License		
24	Number 319486 to Susan Thomas, also known as Susan Tehaney ("Respondent"). Respondent's		
25	registered nurse license was in full force and effect at all times relevant to the charges brought		
26	herein and will expire on October 31, 2009, unless renewed.		
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STATUTORY PROVISIONS

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
 - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct . . .
- 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

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7. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer...

- 8. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.
- 9. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . ."

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCES AT ISSUE

- 11. "Dilaudid", a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).
- 12. "Morphine/morphine sulfate" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M).
- 13. "Demerol", a brand of meperidine hydrochloride, a derivative of pethidine, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(17).

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FIRST CAUSE FOR DISCIPLINE

(Diversion, Possession, and Self-Administration of Controlled Substances)

14. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (a), in that in or about December 2006, and January 2007, while employed and/or on duty as the Nursing Manager for the Emergency Department ("ED") at John C. Fremont Healthcare District/Hospital, Mariposa, California, Respondent did the following:

Diversion of Controlled Substances:

a. Respondent obtained the controlled substances Dilaudid and morphine by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173, subdivision (a), as follows: Respondent took unknown quantities of Dilaudid and morphine from the locked narcotics cabinet in the ED, and documented on the Controlled Substance Administration Records ("CSAR") that the medications were for various patients when, in fact, Respondent diverted the Dilaudid and morphine for her own use. Respondent began hoarding the medications and considered taking them to commit suicide. On several occasions, Respondent self-administered the medications and eventually developed an addiction problem.

Possession of Controlled Substances:

b. Respondent possessed unknown quantities of the controlled substances

Dilaudid and morphine without valid prescriptions from a physician, dentist, podiatrist,

optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060.

Self-Administration of Controlled Substances:

c. Respondent self-administered the controlled substances Dilaudid and morphine without lawful authority therefor.

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SECOND CAUSE FOR DISCIPLINE

(Use of Controlled Substances to an Extent

or in a Manner Dangerous or Injurious to Oneself or Others)

Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (b), in that in or about December 2006, and January 2007, while employed and/or on duty as the Nursing Manager for the ED at John C. Fremont Healthcare District/Hospital, Mariposa, California, Respondent used the controlled substances Dilaudid and morphine to an extent or in a manner dangerous or injurious to herself and/or others, as set forth in subparagraph 14 (a) above.

THIRD CAUSE FOR DISCIPLINE

(False Entries in Hospital/Patient Records)

2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (e), in that in or about December 2006, and January 2007, while on duty as the Nursing Manager for the ED at John C. Fremont Healthcare District/Hospital, Mariposa, California, Respondent falsified or made grossly incorrect, grossly inconsistent, or unintelligible entries in the ED's records pertaining to the controlled substances Dilaudid, Demerol, and morphine sulfate, as follows:

Patient #1:

a. On December 1, 2006, Respondent signed out on the CSAR Dilaudid 2 mg for patient #1 and charted on that same record that she administered the Dilaudid to the patient at 1420 hours when, in fact, there was no physician's order authorizing the medication for the patient.

Patient #2:

b. On December 21, 2006, Respondent signed out on the CSAR Dilaudid 2 mg for patient #2 and charted on that same record that she administered the Dilaudid to the patient at 1500 hours when, in fact, there was no physician's order authorizing the medication for

the patient. Further, Respondent documented on the Record of Waste and Spoilage ("RWS") that she wasted the Dilaudid because the patient had refused the medication (Respondent's entry was countersigned by another nurse).

Patient #3:

c. On December 22, 2006, Respondent signed out on the CSAR Dilaudid 2 mg for patient #3 and charted on that same record that she administered the Dilaudid to the patient at 1100 hours when, in fact, there was no physician's order authorizing the medication for the patient.

Patient #4:

d. On December 28, 2006, Respondent signed out on the CSAR Dilaudid 2 mg for patient #4 and charted on that same record that she administered the Dilaudid to the patient at 0830 hours when, in fact, there was no physician's order authorizing the medication for the patient.

Patient #6:

e. On December 30, 2006, Respondent signed out on the CSAR Demerol 100 mg for patient #6 and charted on that same record that she administered the Demerol to the patient at 1300 hours when, in fact, there was no physician's order authorizing the medication for the patient.

Patient #7:

f. On January 3, 2007, Respondent signed out on the CSAR Dilaudid 2 mg for patient #7 and charted on that same record she administered the Dilaudid to the patient at 1900 hours, when, in fact, there was no physician's order authorizing the medication for the patient. Further, Respondent documented on the RWS that she wasted the Dilaudid (Respondent's entry was countersigned by another nurse).

Patient #8:

g. On January 4, 2007, Respondent signed out on the CSAR Dilaudid 2 mg for patient #8 and charted on that same record that she administered the Dilaudid to the patient at 1600 hours when, in fact, the patient was charged from the ED at 1500 hours.

1	Patient #9:		
2	h. On January 5, 2007, Respondent signed out on the CSAR morphine sulfate		
3	10 mg for patient #9 and charted on that same record she administered the morphine sulfate to		
4	the patient at 1000 hours, when, in fact, there was no physician's order authorizing the		
5	medication for the patient.		
6	Patient #10:		
7	i. On January 5, 2007, Respondent signed out on the CSAR Dilaudid 2 mg		
8	and Demerol 100 mg for patient #10 and charted on that same record she administered the		
9	Dilaudid and Demerol to the patient at 1300 hours when, in fact, there was no physician's order		
10	authorizing either medication for the patient. Further, Respondent documented on the left side of		
11	the RWS that she wasted the Demerol 100 mg, but indicated in the description column, "100 mg		
12	waste change to Dilaudid" (the entries were countersigned by another nurse).		
13	<u>PRAYER</u>		
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
15	alleged, and that following the hearing, the Board of Registered Nursing issue a decision:		
16	1. Revoking or suspending Registered Nurse License Number 319486, issued		
17	to Susan Thomas, also known as Susan Tehaney;		
18	2. Ordering Susan Thomas, also known as Susan Tehaney, to pay the Board		
19	of Registered Nursing the reasonable costs of the investigation and enforcement of this case,		
20	pursuant to Business and Professions Code section 125.3;		
21	3. Taking such other and further action as deemed necessary and proper.		
22	DATED: 418109		
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24	RUTH ANN TERRY, M.P.H., R.N.		
25	Executive Officer Board of Registered Nursing		
26	Department of Consumer Affairs State of California		
27	Complainant		
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